

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1066 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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MANSUR DADUBHAI KATHI

Versus

STATE OF GUJARAT

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Appearance:

MS SUBHADRA G PATEL for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 04/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 15th December, 1998 made by the District Magistrate, Rajkot under the powers conferred upon him under Sub-section 2 of Section 3 of the Gujarat

Prevention of Anti-Social Activities Act, 1985  
[hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' within the meaning of Section 2 (b) of the Act and his activities are found to be prejudicial to the maintenance of 'public order'. Six offences punishable under the Bombay Prohibition Act are registered against the petitioner. Five of them are pending trial. In each of the said cases, country liquor was recovered from the possession of the petitioner and the petitioner was also found to be possessing paraffinic for manufacturing country liquor.

4. It is alleged that quite a few documents, particularly ones at page nos. 12, 42, and 43, furnished to the petitioner alongwith the grounds of detention; relied upon by the detaining authority for recording his subjective satisfaction, are not legible. The learned AGP Mrs. Punani has perused the records and has conceded that the above referred documents are not legible. It must, therefore, be held that the petitioner's constitutional right to make an effective representation against the order of detention has been infringed. The continued detention of the petitioner is, therefore, illegal and invalid.

5. The petition is, therefore, allowed. The order dated 15th December, 1998; Annexure-A to the petition is quashed and set-aside. Rule is made absolute. The petitioner, unless he is required to be detained in some other case, be released forthwith.

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Prakash\*